

CHAPTER 20.87

MESSAGE ESTABLISHMENTS

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20.87.005 Intent And Purpose

It is the purpose of this chapter to establish reasonable and uniform regulations which will serve to protect the health, safety, peace, morals, comfort or general welfare of the community by dispersing the location of massage establishments, as defined herein, thereby preventing their continued concentration within certain noncommercial areas of the City of Newport Beach and by establishing specific zoning districts in which such establishments shall be permitted.

It is the intent of this chapter that the regulations be utilized to promote operation of legitimate massage services, and to prevent problems of blight and deterioration which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.

20.87.010 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

- A. Massage Establishment. "Massage Establishment" shall mean any business conducted within the City of Newport Beach where any person, for money or any other consideration, administers to another person a massage as defined in Section 5.50.010 of the Municipal Code.
- B. Establishment. "Establishment" shall include the opening of such a business as a new business, the relocation of such business, or the conversion of an existing business location to any 'massage establishment' use, the expansion of any existing business, the alteration or enlargement of any existing business, or any of the uses within such a business, or any addition to existing uses within an existing business.

20.87.020 Massage Establishments As An Accessory Use

A massage establishment which is operated as an accessory use in conjunction with an approved health club, athletic club, gym, or hotel which is or will be operated pursuant to an approved use permit; or in conjunction with a medical office or chiropractic office which is regulated by State law, shall be permitted in any district where the primary use is permitted. For the purpose of this section, an accessory use shall mean a use which is not more than 25 percent of the floor area of the related health or athletic activities of the primary use.

20.87.025 Massage Establishments As An Independent Use

A massage establishment which operates as an independent use, shall be permitted in the M-1-A District, RMC, RSC, and APF Districts, commercial areas of PC Districts and commercial areas of the SP-4 (Newport Shores Specific Plan), SP-5 (Mariner's Mile Specific Plan), and SP-9 (Old Newport Boulevard Specific Plan) Districts, subject to the securing of a use permit approved by the Planning Director in each case, and provided further that such establishment conforms to the following:

- A. Location Requirements. Notwithstanding any other provision of the Municipal Code, no use permit shall be approved by the City of Newport Beach for any massage establishment if the proposed site is located:
 - 1. Within 500 feet of any public or private school, park or playground, civic center, cultural site or church site; or
 - 2. Within 500 feet of any other massage establishment site.
- B. Waiver of Location Restrictions. Any property owner or his authorized agent may apply for a waiver of the location restrictions contained in this section. The Planning Director, after a public hearing, may waive any location restriction, if all the following findings are made:
 - 1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed; and
 - 2. The proposed use will not enlarge or encourage the development of an urban blight area; and
 - 3. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal; and

4. The use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park or playground; and
5. All applicable regulations of this Municipal Code will be observed.

20.87.030 Amortization

Any massage establishment as defined in this chapter which was lawfully in existence as of the effective date of this chapter (March 25, 1992) which does not comply in whole or in part with the provisions of this chapter, shall be terminated or otherwise be brought into full compliance within 1 year of the effective date of this chapter (March 25, 1992). For those establishments which cannot be brought into compliance with these provisions because they are not in an approved district, the use may be extended for only one additional period of time, to be established by the Planning Director, upon a showing by the applicant that such extension is reasonably necessary to permit the owner of the massage establishment to amortize or otherwise recover any long term investment in the massage establishment.

Any request for an extension of the 1 year amortization period must be made in writing by the owner of the massage establishment to the Planning Director not later than 60 days prior to the end of the 1 year period provided for in this section.

The Planning Director may grant an extension of up to 1 additional year if the business is otherwise in compliance with all other applicable provisions of law, and upon a showing by the applicant:

- A. That the business involves a substantial financial investment in real property, improvements or stock in trade, or
- B. The business is subject to a written long term lease entered into prior to January 14, 1991 with a termination date extending beyond 1 year from the effective date of this chapter, or
- C. Other factors establishing the nature of the business is such that the business cannot be easily relocated.